

REMARKS

The Official Action of January 13, 2006, and the prior art relied upon therein have been carefully reviewed. The claims in the application are now claims 1-9, and these claims define patentable subject matter warranting their allowance. The applicants respectfully request favorable reconsideration and allowance.

Acknowledgement by the PTO of the receipt of applicants' papers filed under Section 119 is noted.

The PTO has objected to applicants' disclosure because it includes the phrase "or the like", and appropriate correction has been required. Applicants respectfully traverse the rejection and requirement.

Applicants have a right to use the language "or the like" in their specification, as their specification is directed to those skilled in the art. Those skilled in the art know what similar, analogous or equivalent means can be substituted for the specific structures set forth.

With respect, if the Examiner insists that "or the like" must be deleted from applicants' specification, then applicants request a showing of authority for such a requirement.

Claim 1 has been rejected under the second paragraph of Section 112 due to inclusion of the phrase "or the like". This clause has now been deleted from claim 1.

New claim 9 has been added to cover a part of what was deleted from claim 1, and claim 9 is patentable because it depends from and incorporates the subject matter of claim 1.

As no other criticisms have been made under Section 112, applicants understand that the PTO deems applicants' claims to be otherwise in full conformance with Section 112, and applicants are proceeding in reliance thereon.

Claims 1 and 3 have been rejected under Section 102 as anticipated by Kitagawa et al JP 2002-270212 (Kitagawa). This rejection is respectfully traversed.

Kitagawa constitutes acknowledged prior art, noting pages 1-3 of applicants' specification, and in some sense may be considered a starting point for the present invention, from which the present invention departs. Indeed, applicants' claimed embodiments are surely very different from what is disclosed in Kitagawa.

The claimed embodiments are directed to the fuel distribution manifold which is formed into a rod-shaped body having a polygonal-shaped cross section, and a plurality of fuel distribution passages which are provided to be communicated to the fuel supply passage and formed between

central holes of the unit cells and an outer peripheral surface of the fuel distribution manifold.

On the other hand, Kitagawa discloses a fuel cell having none of the above noted features. That is, it is recited in paragraph [0006] of the Kitagawa that the number of structural parts such as a fuel flow field plate 14 at a fuel supply side, a port 28 of an end plate 24 for feeding fuel and the like become large, and further a flow resistance of a fuel supply passage is increased and a fluctuation of fuel concentration becomes large since the construction is provided such that the fuel passage is directed to the center from a side of an end plate through a flow passage plate 29 of a fuel flow field. Therefore, this construction affects a stable supply of energy. And, the number of structural parts becomes large, whereby maintenance becomes troublesome, and then its shape is complicated to thereby increase its dimensions.

In paragraph [0020] it is stated in part that Figure 1 is a perspective view of a portable fuel cell in an assembling manner thereof in accordance with an embodiment of the present invention, and Figure 2 is an exploded sectional view thereof. This portable fuel cell is referred to a polymer electrolyte fuel cell using fuel such as hydrogen.

And in paragraph [0024] Kitagawa states: Further, the fuel distribution manifold 32 as shown in Figure 4 is

formed by engaging a synthetic fiber yarn 324 having hydrophilic property with flanges 322 provided at both ends of a cylindrical housing to extend the synthetic fiber yarns on a surface of a cylindrical body thereof, so that this manifold 32 can feed fuel and absorb/hold generated water.

Thus, the claimed fuel distribution manifold is surely different in its structure from that of the Kitagawa. Therefore, it appears clear to the applicants that claims 1 and 3 are not anticipated by the cited reference. Withdrawal of the rejection is respectfully requested.

Claims 2 and 4-8 have been rejected as obvious under section 103 from Kitagawa. This rejection is respectfully traversed.

First, all of these claims depend from and incorporate the subject matter of claim 1, and therefore define **additional** novel subject matter over Kitagawa as pointed out above with respect to the subject matter of claim 1. Nowhere in Kitagawa is it made obvious to modify the Kitagawa construction to provide the features of claim 1 which are not shown by Kitagawa including, for example, the fuel distribution manifold formed into a rod-shaped body having a polygonal-shaped cross section, and/or a plurality of fuel distribution passages in communication with the fuel supply

passage and formed between central holes of the unit cells and an outer peripheral surface of the fuel distribution manifold.

Moreover, there is nothing in Kitagawa which would have made it obvious for the person of ordinary skill in the art to modify Kitagawa to provide the features recited in the dependent portions of claims 2 and 4-8. With respect, applicants submit that it is not proper for the PTO to merely brush aside recitations which appear in an applicants' claims by saying that such features were "obvious" without the PTO having shown that it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the primary prior art relied upon to provide such features. The rejection does not meet the basic requirements of a *prima facie* case of obviousness as set forth in MPEP 2143, and does not provide the "evidence" of obviousness stated to be necessary in *Ex parte Levengood*, 28 USPQ 2d 1300 (BPAI 1993).

The fuel distribution manifold of the present invention is surely different in its structure and non-obvious from that of Kitagaawa. Further, it cannot be expected in the cited references that according to the present invention the fuel distribution passages can be made large in cross sectional area and in volume for a fuel flow passage, whereby even in the case of an increase in electric power generation,

fuel can be adequately supplied so as to accommodate for fluctuations in a load on the fuel cell.

Therefore, claims 2, 4-8 would not have been obvious from Kitagawa. Withdrawal of the rejection is in order and is respectfully requested.

The prior art document of record and not relied upon by the PTO have been noted, along with the implication that such document is deemed by the PTO to be insufficiently material to warrant its application against any of applicants' claims.

Applicants believe that all issues raised in the Office Action have been addressed above in a manner favorable to allowance of the present application. Accordingly, applicants respectfully request favorable reconsideration and early formal allowance.

Respectfully submitted,

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